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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 IN AND FOR THE COUNTY OF LOS ANGELES

15 UNLIMITED JURISDICTION

16 LOS ANGELES POLICE PROTECTIVE
17 LEAGUE

18 Petitioner,

19 v.

20 CITY OF LOS ANGELES, a municipal
21 corporation; MICHEL R. MOORE, Chief of
22 Police, City of Los Angeles, and DOES 1
23 through 20, inclusive,

24 Respondents.

CASE NO. 18STCP03495

[ASSIGNED TO HON. JAMES C. CHALFANT, DEPT. 85]

**PETITIONER LOS ANGELES POLICE
PROTECTIVE LEAGUE'S REPLY TO
OPPOSITION OF INTERVENORS ACLU OF
SOUTHERN CALIFORNIA, ET AL., IN
SUPPORT OF ALTERNATIVE WRIT OF
MANDATE**

Complaint Filed: December 31, 2018
OSC re: Prelim. Inj: February 5, 2019

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
TABLE OF AUTHORITIES	3
I. INTRODUCTION.....	5
II. STANDARD OF REVIEW	5
III. ARGUMENT.....	6
A. THERE IS NO CLEAR STATUTORY INDICATION THAT SB 1421 SHOULD BE APPLIED RETROACTIVELY	6
B. THE LEGISLATIVE HISTORY DOES NOT EVIDENCE A CLEAR INTENT FOR THE RETROACTIVE APPLICATION OF SB 1421	8
C. SB 1421 WOULD CLEARLY HAVE A RETROACTIVE EFFECT AND DOES NOT ACT PROSPECTIVELY ONLY	9
D. RETROACTIVE APPLICATION OF SB 1421 WOULD IMPERMISSIBLY AFFECT PEACE OFFICERS' PREEXISTING PRIVACY RIGHTS	11
V. CONCLUSION.....	14

TABLE OF AUTHORITIES

Cases

<i>ACLU of Northern Cal. v. Superior Court</i> (2011) 202 Cal.App.4th 55	7
<i>Aetna Cas. & Sur. Co. v. Industrial Acc. Commission</i> (1947) 30 Cal.2d 388	6, 11
<i>Albertson v. Superior Court</i> (2001) 25 Cal.4th 796.....	9
<i>Arthur Andersen v. Superior Court</i> (1998) 67 Cal.App.4th 1481	8
<i>Bell v. Farmers Ins. Exchange</i> (2006) 135 Cal.App.4th 1138.....	7
<i>BRV, Inc. v. Superior Court</i> (2006) 143 Cal.App.4th 742.....	12
<i>Bullard v. California State Automobile Assn.</i> (2005) 129 Cal.App.4th 211.....	6
<i>Callet v. Alioto</i> (1930) 210 Cal. 65	11
<i>Chambers v. Superior Court</i> (2007) 42 Cal.4th 673.....	13
<i>Commission on Peace Officer Standards & Training v. Superior Court</i> (2007) 42 Cal.4th 278.....	14
<i>Evangelatos v. Superior Court</i> (1988) 44 Cal.3d 1188	6, 8
<i>In re E.A.</i> (2018) 24 Cal.App.5th 648.....	7
<i>In re E.J.</i> (2010) 47 Cal.4th 1258	7
<i>In re Marriage of Buol</i> (1985) 39 Cal.3d 751.....	14
<i>Kizer v. Hanna</i> (1989) 48 Cal.3d 1	10
<i>McClung v. Employment Dev. Dept.</i> (2004) 34 Cal.4th 467	11
<i>Michael v. Gates</i> (1995) 38 Cal.App.4th 737	12
<i>People v. McClinton</i> (2018) 29 Cal.App.5th 738	10, 11
<i>People v. Superior Court of Orange County (Smith)</i> (2018) 6 Cal.5th 457	13
<i>Plotkin v. Sajahtera, Inc.</i> (2003) 106 Cal.App.4th 953	14
<i>Quintano v. Mercury Casualty Co.</i> (1995) 11 Cal.4th 1049.....	8
<i>Younger v. Superior Court</i> (1978) 21 Cal.3d 102.....	11

Federal Cases

<i>United States v. Heth</i> (1806) 7 U.S. 399.....	11
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Statutes

Government Code section 6252(e)	8
Government Code section 6253(c)	7
Government Code section 6254(c)	12
Penal Code section 832.7(b)(2).....	13

Other Authorities

Article 1, Section 1 of the California Constitution	13
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1 **I. INTRODUCTION**

2 Petitioner Los Angeles Police Protective League (“League”) hereby submits its Reply Brief to
3 the Opposition filed by Intervenor ACLU of Southern California, Valeria Rivera, First Amendment
4 Coalition, Los Angeles Times Communications LLC, California Newspapers Partnership L.P., The
5 Center for Investigative Reporting, and California News Publishers Association.

6 Intervenor contend that the plain legislative language and intent establish that California
7 Senate Bill 1421, enacted as Chapter 988 of the 2017-2018 Regular Session (“SB 1421”) must be
8 applied retroactively. Yet, Intervenor fail to provide any clear statement of legislative intent, in either
9 the statute itself or in the history, that meets the requisite standard to apply such a statute retroactively.
10 Without such evidence of intent, SB 1421 must be applied prospectively only.

11 Intervenor further argue however, that SB 1421 does not in fact act retroactively because it
12 does not “impose any additional obligation or penalty on the officer for past conduct.” (Opposition,
13 9:10-12.) In so arguing, however, Intervenor ignore that prior to the enactment of SB 1421, members
14 of the League had an information privilege and privacy right in their records. The undisputed evidence
15 shows that officers took certain actions based on those rights. Now, however, those rights have been
16 eviscerated by legislative action. Retroactivity is not only found when the legal effect of past events is
17 changed; it is also found where legislation impacts *rights*. By removing the right to privacy in those
18 records and the associated informational privilege, SB 1421 would undoubtedly act retroactively, and
19 therefore there must be a clear indication of such intent for SB 1421 to be applied in this fashion.

20 Recognizing the impact on privacy rights, Intervenor argue that peace officers had no vested
21 interest in the confidentiality of their peace officers records and therefore the retroactive application of
22 SB 1421 should be permitted. However, this argument ignores the privacy right held by officers
23 separate from the statute and the fact that the statute itself only permitted the disclosure of certain
24 records in limited circumstances. That right is now completely eliminated for four categories of
25 records, and the elimination of that right is a retroactive application of SB 1421.

26 **II. STANDARD OF REVIEW**

27 Intervenor do not address the proper standard of review which governs this Court’s analysis of
28 whether SB 1421 should be applied retroactively. As stated by the Court of Appeal, “a statute may be

1 applied retroactively only if it contains express language of retroactivity or if other sources provide a
2 clear and unavoidable implication that the Legislature intended retroactive application. [Citation.]”
3 (*Bullard v. California State Automobile Assn.* (2005) 129 Cal.App.4th 211, 217.) Moreover, “a statute
4 that is *ambiguous with respect to retroactive application is construed ... to be unambiguously*
5 *prospective.*” (*Myers v. Philip Morris Companies, Inc.* (2002) 28 Cal. 4th 828, 841, emphasis added.)

6 Statutes are not to be given a retrospective operation unless it is clear that such was the
7 legislative intent. (*Aetna Cas. & Sur. Co. v. Industrial Acc. Commission* (1947) 30 Cal.2d 388, 393.)
8 As later stated by the Supreme Court: “[A] retrospective operation will not be given to a statute which
9 interferes with antecedent rights ... unless such be ‘*the unequivocal and inflexible import of the terms,*
10 *and the manifest intention of the legislature.*’” (*Myers, supra*, 28 Cal.4th at 840, emphasis added; see
11 also *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1209 [“[I]n the absence of an express
12 retroactivity provision, a statute will not be applied retroactively unless it is very clear from extrinsic
13 sources that the Legislature [] must have intended a retroactive application”].)

14 **III. ARGUMENT**

15 **A. THERE IS NO CLEAR STATUTORY INDICATION THAT SB 1421 SHOULD** 16 **BE APPLIED RETROACTIVELY**

17 As reflected in the Ex Parte Application, the plain statutory language of SB 1421 does not
18 establish that the statute should be applied retroactively. Therefore, pursuant to the clear tenets of the
19 retroactive analysis, the Court must conclude that the statute should operate prospectively only.

20 Intervenors do not cite to any clear statutory language that would indicate an intent to apply SB
21 1421 retroactively. Instead, Intervenors rely on the use of the word “maintained” and “any” in SB 1421
22 as evidence of clear legislative intent. However, the use of the word “maintained” here cannot represent
23 the clear legislative intent required to establish retroactive application because the statute does not
24 specify that all records *already* maintained are now subject to disclosure. “Maintain” by itself does not
25 mean to preserve what is already in existence as opposed to preserve certain records going forward.
26 Moreover, the use of the word “maintain” cannot establish the Legislature’s intent in enacting SB 1421
27 because the word was already present in Section 832.7 prior to its amendment.

28 The use of the words “any” and “all” also does not support Intervenors’ contention that all *past*

1 records must be disclosed. As noted by Intervenor, “[t]he word ‘any’ is not ambiguous. [T]he ordinary
2 meaning of the word ‘any’ is clear, and its use in a statute unambiguously reflects a legislative intent
3 for that statute to have a broad application.” (*In re E.A.* (2018) 24 Cal.App.5th 648, 661.) However, the
4 use of the word “any” does not evidence a clear intention to apply the statute retroactively, as opposed
5 to an intent to ensure broad application of SB 1421 going forward. Indeed, in neither case cited by
6 Intervenor was the use of the word “any” held to establish the clear statutory language necessary to
7 apply a statute retroactively. For example, in *In re E.J.* (2010) 47 Cal.4th 1258, the Supreme Court
8 determined that a statute mandating certain residency requirements for paroled sex offenders did not
9 even apply retroactively, as “[e]ach of these four petitioners was released from custody on his current
10 parole and took up residency in noncompliant housing after section 3003.5(b)’s effective date.” (*Id.* at
11 1272.) In *Bell v. Farmers Ins. Exchange* (2006) 135 Cal.App.4th 1138, the Court of Appeal noted that
12 the use of the word “all” was “compatible with the premise that the Legislature intended the statute to
13 clarify existing law.” (*Id.* at 1146.) As the Court of Appeal then noted, “A legislative clarification
14 establishes the true legislative intent without changing the past legal consequences of the statute as
15 properly understood.” (*Ibid.*) Here, on the other hand, it is clear that SB 1421 did not merely seek to
16 clarify existing law regarding the privacy rights possessed by officers; it sought to remove them.

17 Intervenor next argue that the statute should apply retroactively because SB 1421 operates in
18 conjunction with the CPRA, which requires the production of records “in the possession of the
19 agency.” (Gov. Code, §6253, subd. (c).) However, as the same subdivision makes clear, the agency
20 must still “determine[] that the request seeks disclosable public records....” (*Ibid.*) As the Court of
21 Appeal recognized, “All public records are subject to disclosure unless the Public Records Act
22 expressly provides otherwise.” (*ACLU of Northern Cal. v. Superior Court* (2011) 202 Cal.App.4th 55,
23 66; emphasis added.) It is undisputed that, previously, peace officer personnel records were not subject
24 to disclosure, and could only be produced pursuant to the *Pitchess* process. The issue to be adjudicated
25 in this case is whether the preexisting statutory exemption continues to apply or whether SB 1421 has
26 removed that exemption through its retroactive application. The text of the CPRA cannot help
27 determine whether SB 1421 should be applied retroactively because the CPRA does not contain any
28 indication that all existing records previously designated *exempt from disclosure* should now be subject

1 to such disclosure if those protections are removed *prospectively*. Furthermore, the CPRA is a statutory
2 scheme for document production. Because the Legislature knew it was amending a statute affording an
3 information privilege, had it intended to retroactively unwind already-acquired privacy rights to that
4 information, it would have unambiguously said so, rather than merely rely on coherence with a
5 document production scheme. (*Arthur Andersen v. Superior Court* (1998) 67 Cal.App.4th 1481, 1500
6 [“The Legislature is presumed to know existing law when it enacts a new statute...”].)

7 Finally, the definition of a “public records” set forth in Government Code Section 6252,
8 subdivision (e) is unhelpful to this analysis because peace officer personnel records were presumably
9 always “public records”; the issue is whether those records already in possession should be produced.

10 Accordingly, there is no express language of retroactivity in SB 1421, and the Court should thus
11 conclude that SB 1421 should be applied prospectively only.

12 **B. THE LEGISLATIVE HISTORY DOES NOT EVIDENCE A CLEAR INTENT**
13 **FOR THE RETROACTIVE APPLICATION OF SB 1421**

14 Intervenors also argue that legislative history of SB 1421 establishes an intent to apply SB 1421
15 retroactively to already existing records. However, Intervenors have again failed to provide sufficiently
16 clear “text, history, and other extrinsic evidence” to establish a “manifest” intent for retroactive
17 application. (See *Evangelatos, supra*, 44 Cal.3d at 1210; *Myers, supra*, 28 Cal.4th at 840.)

18 To support their contention, Intervenors only cite the inclusion of an opposition to SB 1421
19 submitted by the Los Angeles County Professional Peace Officer Association (“PPOA”). (JA 23;
20 Opposition, 13:19-14:7.)¹ However, merely because PPOA asserted that the law would be “retroactive
21 in its impact” does not mean that the *Legislature* so intended. Indeed, the Supreme Court recognized
22 the difference between an opinion letter from a lobbyist and evidence of the Legislature’s intent in
23 enacting the statute, stating: “The letters, upon examination, do not aid in interpretation of the statute,
24 but merely state the individual opinions of their authors.” (*Quintano v. Mercury Casualty Co.* (1995)
25 11 Cal.4th 1049, 1063.) Although the letter here was included in the Committee analysis of SB 1421, it
26

27 ¹ Unlike the letter from the PPOA, none of the other letters referenced in Intervenors’ Opposition (see
28 p. 14, fn. 16) were included in any legislative report, but were only included in the Committee File.
They therefore have no bearing on the Legislature’s intent in adopting SB 1421.

1 is still merely the stated opinion of the authors, and not the Legislature. Although nothing contradicts
2 this statement from the PPOA, *nothing affirms it either*. There is no statement in the entirety of the
3 analysis that clearly states either that the PPOA’s analysis is correct or that SB 1421 will have
4 retroactive effect. Intervenors suggest the “legislators looking to the official committee analysis for the
5 impact of S.B. 1421 would therefore understand that it opens past records to disclosure, and passed the
6 bill with that understanding.” (Opposition, 14:2-4.) However, there again is no evidence that this
7 assumption is correct. The Report does not conclude that the concerns raised by PPOA are actually
8 legally correct such that a legislator would afford those concerns any weight. There is thus nothing to
9 indicate that legislators would understand that the law would apply retroactively, especially as this
10 retroactive application is cited nowhere else—not even in the ACLU’s argument. (See JA 21-23.)

11 *Albertson v. Superior Court* (2001) 25 Cal.4th 796, cited by Intervenors, is actually instructive
12 of how the legislative history here fails to provide the required manifest intent of retroactivity. In that
13 case, not only did the ACLU raise objections to a statute, but objections were raised by the Assembly
14 Committee on Public Safety. (*Id.* at 806-07.) Thereafter, not only did the Assembly leave intact the
15 objected-to provisions, it actually amended the bill in such a way to indicate a clear intent to reject the
16 concerns raised by ACLU and the Committee. (*Id.* at 807.) Here, on the other hand, there is no
17 evidence of any subsequent amendment to SB 1421 after the PPOA’s opposition was noted in the
18 Committee Report. Intervenors have cited no authority that permits an inference of intent from a *failure*
19 *to amend* legislation, and therefore *Albertson* is distinguishable and instead draws clear the failures of
20 the legislative history of SB 1421 to provide any clear indication of intent.

21 Because a statute that is “ambiguous with respect to retroactive application is construed ... to be
22 unambiguously prospective” (*Myers, supra*, 28 Cal. 4th at 841), SB 1421 is prospective only.

23 **C. SB 1421 WOULD CLEARLY HAVE A RETROACTIVE EFFECT AND DOES**
24 **NOT ACT PROSPECTIVELY ONLY**

25 Intervenors also contend the above analysis is irrelevant because SB 1421 does not have
26 retroactive effect. As they state, “the law only imposes new obligations upon agencies, and those
27 obligations are prospective—they went into effect only after Jan. 1 and apply to CPRA requests
28 pending after that date.” (Opposition, 7:14-16.) However, Intervenors’ arguments fail.

1 First, Intervenor has failed to rebut the evidence presented by the League through the
2 Declaration of Craig Lally, who stated, “The existing right of privacy of LAPPL’s represented peace
3 officers... caused such members to make significant employment decisions in reliance on that
4 confidentiality and privacy.” (Decl. of Lally, ¶4.) Specifically, Lally declared:

5 The existence of such confidentiality of peace officer personnel records is often
6 a factor in the decision by officers to forgo their right to appeal accusations of
7 alleged misconduct or severity of discipline, and instead, reach a prompt
8 resolution with the LAPD in the furtherance of positive labor relations and in
9 preservation of resources; despite an officer’s underlying disagreement with the
10 propriety of such disciplinary action.

11 (*Id.*) This undisputed evidence thus establishes that the application of SB 1421 to pre-existing
12 personnel files would have substantial retroactive impact, as it would attach a new legal consequence
13 to pre-enactment events. This practical and legal effect was effectively ignored by Intervenor.

14 None of the cases cited by Intervenor establish that the removal of previously-existing privacy
15 rights would be prospective, not retroactive. For example, *Kizer v. Hanna* (1989) 48 Cal.3d 1 did not
16 concern rights, but instead whether an estate would need to reimburse the Department of Health
17 Services for Medi-Cal benefits received before the decedent’s death. (*Id.* at 3-4.) Notably, the Supreme
18 Court held that the new statute authorizing the repayment of such benefits “affects only estates arising
19 after the statute’s effective date and that there is no legislative intent to the contrary.” (*Id.* at 7.)
20 Accordingly, because the estate in question was not even in existence on the effective date of the
21 statute—as the Medi-Cal recipient was not yet dead—there could be no retroactive effect because there
22 was simply nothing for the statute to impact until the recipient died. Here, on the other hand, the
23 personnel records were already in existence prior to the effective date of SB 1421, and peace officers
24 already have a privacy interest in the information contained therein that predates SB 1421’s passage.

25 *People v. McClinton* (2018) 29 Cal.App.5th 738 is similarly inapplicable because the case deals
26 with the well-established principle that, “a law addressing the conduct of trials still addresses conduct
27 in the future. This is a principle that courts in this state have consistently recognized. Such a statute is
28 not made retroactive merely because it draws upon facts existing prior to its enactment.” (*Id.* at 753;
citations omitted.) As the Court of Appeal noted regarding the statute at issue in that case, it “plainly
applies to SVP discovery procedures and/or trial proceedings that were to occur after” the effective

1 date of the statute. (*Ibid.*) It is clear that no trial proceedings or procedures were affected by SB 1421,
2 and no similar tenet has been cited by Intervenor for how to interpret statutes that may have an impact
3 on CPRA requests. Therefore, *McClinton* cannot establish that SB 1421 is merely prospective.

4 It is therefore clear that SB 1421 would have a retroactive effect by impacting preexisting
5 privacy rights. As repeatedly stated by the Supreme Court, “A retrospective law is one which affects
6 *rights*, obligations, acts, transactions and conditions which are performed or exist prior to the adoption
7 of the statute.” (*Aetna Cas. & Sur. Co.*, *supra*, 30 Cal.2d at 391; emphasis added.) “[I]t has long been
8 established that a statute *that interferes with antecedent rights* will not operate retroactively unless such
9 retroactivity be ‘the unequivocal and inflexible import of the terms, and the manifest intention of the
10 legislature.’” (*McClung v. Employment Dev. Dept.* (2004) 34 Cal.4th 467, 475, quoting *United States v.*
11 *Heth* (1806) 7 U.S. 399, 413; emphasis added.) Accordingly, SB 1421 is not prospective only. It has
12 a substantial retroactive impact by directly removing the privacy interests peace officers previously
13 possessed in certain records contained within their personnel files.

14 **D. RETROACTIVE APPLICATION OF SB 1421 WOULD IMPERMISSIBLY**
15 **AFFECT PEACE OFFICERS’ PREEXISTING PRIVACY RIGHTS**

16 Intervenor finally argue that, “[d]etermining whether a law impairs a vested right may inform
17 whether it functions prospectively.” (Opposition, 9:25.) However, this focus on whether the right to
18 privacy is “vested” is misplaced. At issue is whether there is sufficient evidence of legislative intent to
19 establish that the statute should have retroactive effect. It is only if the intent is clear that the vested
20 nature of the impaired right may be relevant. Moreover, whether the right is “vested” is not
21 determinative on whether the statute has retroactive impact. Indeed, Intervenor has cited no case in
22 which a statute was found to not have retroactive effect because the right was not sufficiently vested.

23 The majority of the cases cited by Intervenor relate to a statutorily created *remedy*, not a
24 preexisting right such as the right to privacy. “[A] *cause of action or remedy* de[p]endant on a statute
25 falls with a repeal of the statute, even after the action thereon is pending.” (*Callet v. Alioto* (1930) 210
26 Cal. 65, 67; emphasis added.) For example, *Younger v. Superior Court* (1978) 21 Cal.3d 102 also
27 involves a remedy, not a right. As the Supreme Court stated, “there is no common law right to erasure
28 or return of records of an arrest not followed by a conviction.” (*Id.* at 109.) This is clearly a reference to

1 a remedy, not a right such as the right of privacy.

2 Moreover, Intervenor's are incorrect in stating that the "[a]ny claim to privacy for records of
3 serious misconduct is derived solely from the *Pitchess* statutes." (Opposition, 11:5-6.) As stated in
4 *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, a case upon which Intervenor's rely, "Public
5 employees have a legally protected interest in their personnel files." (*Id.* at 756.) The Court of Appeal
6 then noted that such a privacy right was recognized by the CPRA itself, which permits an agency to not
7 produce "[p]ersonnel records... the disclosure of which would constitute an unwarranted invasion of
8 personal privacy." (Gov. Code, § 6254, subd. (c).) When weighing whether to permit disclosure of
9 records, an agency must balance this interest, and disclosure is not automatic. (*BRV, Inc., supra*, 143
10 Cal.App.4th at 757.) Accordingly, there exists a constitutional right to privacy in one's personnel files
11 that is protected by the CPRA itself and is outside the protection afforded by the *Pitchess* process.

12 Contrary to Intervenor's contention, *Michael v. Gates* (1995) 38 Cal.App.4th 737 does not
13 establish that a peace officer has no privacy interest in his or her personnel file, and therefore the
14 retroactive application of SB 1421 would impact that existing right. First, it should be noted that the
15 Court of Appeal was careful to limit the holding of the case to the facts before it, in which a City
16 Attorney had accessed Michael's personnel records to defend against a civil suit brought by a plaintiff
17 in which Michael was to testify as a witness against the Department. As the Court of Appeal stated,
18 "We determine that the Evidence Code's procedural requirements are not applicable to *the facts just*
19 *described, and that under those circumstances*, inspection of records by the law enforcement agency
20 and its attorney violates no statutory or constitutional right." (*Id.* at 740.) The Court of Appeal then
21 recognized that the statutory scheme actually demands that a "governmental agency and its lawyer *will*
22 *review those records, without noticed motion or court order.*" (*Id.* at 744.) Accordingly, in those
23 circumstances, Michael had no reasonable expectation of privacy in his records and the *Pitchess*
24 process was not violated. There are no similar facts here.

25 Furthermore, merely because some information may be disclosed through the *Pitchess* process
26 does not mean that there is no right to be impaired by the retroactive application of SB 1421 or that any
27 reliance on that right is improper. First, no records over five years old may be produced through a
28 *Pitchess* motion, and therefore the privacy interest in those records is substantial, as they otherwise

1 could not be produced. Second, the amount of information required to be produced by Penal Code
2 Section 832.7, subdivision (b)(2) far exceeds what is generally required to be produced following a
3 *Pitchess* motion. As the Supreme Court recognized, “an order of disclosure ordinarily involves
4 revelation of only the name, address and phone number of any prior complainants and witnesses and
5 the dates of the incidents in question.” (*Chambers v. Superior Court* (2007) 42 Cal.4th 673, 679.)
6 Third, anything produced pursuant to a *Pitchess* motion is kept largely confidential, as the statute
7 “requires the court to impose a protective order providing that the “records disclosed or discovered
8 may not be used for any purpose other than a court proceeding pursuant to applicable law.” (*Id.* at 679-
9 80; emphasis in original.) In contrast here, the records would be public with no limitation placed on
10 their use or distribution. Accordingly, merely because some information may be disclosed in limited
11 fashion following a *Pitchess* motion does not mean that peace officers lack any privacy interest in their
12 personnel records such that a statute removing all privacy protections would not have retroactive effect.

13 For this reason, *People v. Superior Court of Orange County (Smith)* (2018) 6 Cal.5th 457 is
14 distinguishable. In that case, which concerned the alleged confidentiality of communications with
15 mental health professionals and whether such records could be disclosed in a proceeding under the
16 Sexually Violent Predator Act, the Supreme Court stated, “it is not clear why Smith assumed his
17 conversations with these professionals would necessarily remain forever confidential.” (*Id.* at *6.) The
18 Supreme Court then cited the fact that appellate courts had split on the question of whether such
19 records could be disclosed and that attorneys could have obtained those records even before the
20 statutory amendment. (*Ibid.*) Here, on the other hand, peace officers have received assurances that their
21 information would be kept confidential from Public Records Act requests, and that the information
22 would be disclosed only in limited circumstances with a protective order in place to ensure that such
23 information is not distributed beyond the case at issue.

24 Therefore, if it is necessary in order for a statute to have retroactive effect that the right
25 impaired be vested, the Court should determine that the privacy rights previously provided to officers
26 are, in fact, vested. The right here is not purely statutory, as noted *supra*. Indeed, the right to privacy is
27 enshrined in Article 1, Section 1 of the California Constitution, which states: “All people are by nature
28 free and independent and have inalienable rights. Among these are enjoying and defending life and

1 liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness,
2 and privacy.” As stated by the Supreme Court, “The Constitution... recognizes the right to privacy and
3 specifically acknowledges the statutory procedures that protect the privacy of peace officers.”
4 (*Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 288.)

5 As the right can be considered vested, it can be impaired only if the retroactive application of
6 the statute would not violate due process. As stated by the Court of Appeal:

7 Determining whether a particular retroactive provision violates due process by
8 impairing a vested right requires weighing several factors: “the significance of
9 the state interest served by the law, the importance of the retroactive application
10 of the law to the effectuation of that interest, the extent of reliance upon the
11 former law, the legitimacy of that reliance, the extent of actions taken on the
12 basis of that reliance, and the extent to which the retroactive application of the
13 new law would disrupt those actions.”

14 (*Plotkin v. Sajahtera, Inc.* (2003) 106 Cal.App.4th 953, 963-64, quoting *In re Marriage of Buol* (1985)
15 39 Cal.3d 751, 761.) Here, the weighing of these factors supports not applying the statute retroactively.
16 Although the state interest in SB 1421 may be significant, the retroactive application of SB 1421 is not
17 important to the effectuation of that interest, as the prospective application of the statute will still have
18 a significant effect in opening peace officer personnel records going forward, thereby ensuring further
19 public oversight of police departments. Moreover, as established in the Declaration of Lally, peace
20 officers have substantially relied on the former law, making career decisions based on the knowledge
21 that their personnel records would remain private. A retroactive application of SB 1421 would
22 completely disrupt the careers of numerous officers who relied on the prior privacy protections they
23 enjoyed, and therefore the weighing of the above factors supports applying SB 1421 prospectively only.

24 **V. CONCLUSION**

25 For the foregoing reasons, Plaintiff Los Angeles Police Protective League respectfully requests
26 the Court grant the Writ of Mandate and all other requested relief.

27 Dated: January 29, 2019

RAINS LUCIA STERN
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/s/

By: Brian Ross
Attorneys for Petitioner, LOS ANGELES POLICE
PROTECTIVE LEAGUE

1 **PROOF OF SERVICE**

2 I am employed in the City of Santa Monica, State of California. I am over 18 years of age and
3 not a party to this action. My business address is Rains Lucia Stern St. Phalle & Silver, PC, 1428 2nd
Street, Suite 200, Santa Monica, CA 90401.

4 On the date below I served a true copy of the following document(s):

5 **PETITIONER LOS ANGELES POLICE PROTECTIVE LEAGUE'S REPLY TO OPPOSITION**
6 **OF INTERVENORS ACLU OF SOUTHERN CALIFORNIA, ET AL., IN SUPPORT OF**
7 **ALTERNATIVE WRIT OF MANDATE**

8 on the interested parties to said action by the following means:

9 ☒ **(BY MAIL)** By placing a true copy of the above, enclosed in a sealed envelope with
10 appropriate postage, for collection and mailing following our ordinary business practices. I am
11 readily familiar with this business's practice for collecting and processing correspondence for
12 mailing. On the same day that the correspondence is placed for collection and mailing, it is
deposited in the ordinary course of business with the United States Postal Service, in a sealed
envelope with postage fully prepaid.

13 ☐ **(BY OVERNIGHT DELIVERY)** By placing a true copy of the above, enclosed in a sealed
envelope with delivery charges to be billed to Rains Lucia Stern St. Phalle & Silver, P.C., for
14 delivery by an overnight delivery service to the address(es) shown below.

15 ☐ **(BY FACSIMILE TRANSMISSION)** By transmitting a true copy of the above by facsimile
transmission from facsimile number (310) 393-1486 to the attorney(s) or party(ies) shown
below.

16 ☐ **(BY MESSENGER)** By placing a true copy of the above in a sealed envelope and by giving
17 said envelope to an employee of First Legal for guaranteed, same-day delivery to the
address(es) shown below.

18 ☐ **(BY HAND DELIVERY)** By personal delivery of a true copy of the above to the attorneys or
parties shown below

19 ☒ **(BY E-MAIL or ELECTRONIC TRANSMISSION)** Based on a court order or an
20 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
21 documents to be sent to the persons at the e-mail addresses listed below. I did not receive,
22 within a reasonable period of time, after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

23 See attached service list

24
25 I declare under penalty of perjury under the law of the State of California that the foregoing is
26 true and correct.

27 DATED: January 29, 2019

/s/

Michele Hengesbach

SERVICE LIST

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